

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION  
DOCKET NO. E-100, SUB 101**

<b>In the Matter of:</b>	)	<b>NCSEA’S REPLY TO DUKE</b>
<b>Petition for Approval of Generator</b>	)	<b>ENERGY CAROLINAS,</b>
<b>Interconnection Standards</b>	)	<b>LLC’S AND DUKE ENERGY</b>
	)	<b>PROGRESS, LLC’S</b>
	)	<b>RESPONSE IN OPPOSITION</b>
	)	<b>OF NCSEA’S MOTION TO</b>
	)	<b>COMPEL</b>
	)	

**NCSEA’S REPLY TO DUKE ENERGY CAROLINAS, LLC’S AND DUKE  
ENERGY PROGRESS, LLC’S RESPONSE IN OPPOSITION OF NCSEA’S  
MOTION TO COMPEL**

NOW COMES the North Carolina Sustainable Energy Association (“NCSEA”), by and through the undersigned counsel, and in further support of *NCSEA’s Motion to Compel* filed on March 6, 2020 (“Motion to Compel”) files this Reply to *Duke Energy Carolinas, LLC’s and Duke Energy Progress, LLC’s Response in Opposition to NCSEA’s Motion to Compel* (“Response”) filed on March 13, 2020 by Duke Energy Carolinas, LLC’s (“DEC”) and Duke Energy Progress, LLC’s (“DEP”) (DEC and DEP, collectively, “Duke”) and shows the North Carolina Utilities Commission (the “Commission”) the following:

**ANALYSIS**

**I. NCSEA’S DISCOVERY REQUESTS ARE RELATED TO ISSUES CURRENTLY PENDING BEFORE THE COMMISSION**

Duke claims that the Commission’s June 14, 2019 *Order Approving Revised Interconnection Standard and Requiring Reports and Testimony* “resolv[ed] all but one outstanding issue with respect to the NCIP[,]” or North Carolina Interconnection Procedures. Response, p. 5. However, interconnection queue reform is a mammoth policy issue, one which Duke recognizes incorporates topics including the allocation of costs,

interdependencies, timelines, and milestones and payments. *See, Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's Motion to Delay*, p. 2 (October 15, 2019). Duke's Response downplays the breadth of the queue reform issue and its impact on independent power producers in North Carolina, all while holding, as of this filing, eleven stakeholder meetings and other one-on-one meetings to garner support for their proposal prior to filing.

Oversight of interconnection costs is clearly an issue pending before the Commission, as interconnection queue reform results in a sharing of costs not previously contained within the North Carolina Interconnection Standard. The Commission's October 23, 2019 *Order Granting Motion to Delay* specifically stated that cost allocation is a pending issue. *See also, Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Motion to Delay*, p. 2. NCSEA's members, who will be directly impacted by Duke's queue reform proposal, have a right to know what practices Duke has in place which relate to cost allocation, as well as general costs, associated with interconnection.

Despite this clear relevance, Duke has failed to give *any* answers to the following Data Requests which relate to cost oversight and overhead:

- NCSEA DR6-1 (protocol for monitoring cost protocols and how its changed);
- NCSEA DR6-2 (protocol for cost controls related to interconnection costs and upgrade costs);
- NCSEA DR6-3 through DR6-8 (protocols for Duke hiring of third-party contractors in interconnection work);
- NCSEA DR6-9 (sole source contracting concerns);

- NCSEA DR6-10 (how are interconnection charges, including upgrade charges, determined);
- NCSEA DR6-11 (evaluating third-party contractor cost estimates);
- NCSEA DR6-12 through DR6-16 and DR6-28 through DR6-29, (overhead costs and evaluation in interconnection related areas);
- NCSEA DR6-17 (contingency calculations);
- NCSEA DR6-26 (equipment cost estimates for interconnection upgrades);
- NCSEA DR6-27 (labor cost estimates for interconnection upgrades);
- NCSEA DR6-30 through DR6-32 (differences in cost estimations for Duke-owned generation versus independent generation)
- NCSEA DR6-33 (interconnection accounting results and refunds);
- NCSEA DR6-34 (determination of delivery date for accounting purposes);
- NCSEA DR6-35 (definition of engineering cost calculations); and
- NCSEA DR6-36 and DR6-37 (good utility practice and cost controls for interconnection).

In addition to interconnection costs, issues related to interdependency are clearly pending before the Commission. *See, Order Granting Motion to Delay*, p. 3, and *Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Motion to Delay*, p. 2. However, Duke has failed to give *any* answers to the following Data Requests which relate to how interdependency will work under a queue reform proposal:

- NCSEA DR6-18 (line voltage regulator policy changes);
- NCSEA DR6-19 through DR6-20 and DR6-24 and DR6-25 (line voltage regulatory system status); and

- NCSEA DR6-21 through DR6-23 (distribution system demand response).

Duke's claim that issues were previously addressed by the Commission does not relieve them from their duty to respond to discovery. Furthermore, Duke states:

NCSEA's Requests for information and documents related to Duke's interconnection-related overhead costs and Final Accounting Report administration were also generally considered and addressed by the Commission during the recent evidentiary proceeding. The June 2019 Order specifically addressed recovery of interconnection related overhead and other interconnection-related costs, "direct[ing] the Utilities, to the greatest extent possible, to continue to seek to recover from Interconnection Customers all expenses (including reasonable overhead expenses) associated with supporting the generator interconnection process under the NC Interconnection Standard."

Response, p. 10. Nowhere in this assertion are NCSEA's data requests answered, nor do they indicate where this information is otherwise available. Duke's responsibility to answer discovery remains. The quote from that Order, if anything, exhibits the need to determine the "generally" considered costs and whether those costs are "reasonable" and whether they are truly associated with the generator interconnection process under the new NCIP.

Duke claims that the questions contained in NCSEA DR6 are not related to queue reform, and specifically identifies third-party contractor hiring practices as being irrelevant. NCSEA believes that because its members are expected to pay an allocation of such costs under a queue reform proposal, then its members should have transparency to how such costs are allocated. Duke's position that these questions either have previously been answered or that NCSEA has somehow "missed the boat" to ask them simply does not relieve Duke of its responsibility to respond, especially given that transparency is paramount under a cluster study process, especially for issues related to cost allocation related and interdependency.

## **II. NCSEA’S DISCOVERY REQUESTS ARE TIMELY**

Duke’s Response mischaracterizes NCSEA’s position in stating that NCSEA has ignored the “procedural posture” of this docket, asserting that “NCSEA’s Motion wholly ignores the current procedural posture of the Docket, in which the evidentiary hearing has been held, the June 2019 Order issued, and only one issue remains pending for Commission decision.” Response, p. 3. NCSEA’s *Motion to Compel* directly addresses this issue. The period for comments on Duke’s queue reform proposal is about to open, and NCSEA does not have information related to the issues outlined in the Commission’s *Order Granting Motion to Delay*, which outlined *four* topics at issue (not one, as indicated by Duke in its Response): “to address specific areas of the queue reform proposal, specifically: (1) cluster timeline/predictability and restudy; (2) cost allocation; (3) interdependencies; and (4) cluster milestone payments and refunds.” *Order Granting Motion to Delay*, p. 1.

The topic of queue reform was not ripe prior to the evidentiary hearing, despite Duke’s assertions otherwise. *See*, Response, p. 6. Duke’s witness broached the subject broadly in rebuttal testimony (after NCSEA had served all of its prior data requests), and then the Commission directed Duke to begin a stakeholder process and comment period on this discrete policy issue. There was never any prior time where these issues were litigated or investigated by intervenors. To the extent the questions in NCSEA DR6 have previously been answered in this docket (or elsewhere), NCSEA would welcome Duke to point out specifically where these questions have been answered.

Duke’s position that this is no longer an open, litigated docket and, instead, a stakeholder process, is belied by the Commission’s *Order Granting Motion to Delay*, as subsequently modified by the Commission’s February 26, 2020 *Order Granting Extension*

*of Time*, which explicitly established a requirement for queue reform proposals *and* established comment and reply comment periods. Also, there is no protective order or scheduling order relieving Duke from its responsibility to respond to discovery requests in this docket.

### **III. CONCLUSION.**

WHEREFORE, for the reasons set forth herein, NCSEA requests that the Commission order:

- (1) Duke to provide responses to each of the individual data requests contained in NCSEA DR6 and that such responses are made prior to the filing of Duke's Queue Reform Proposal which is currently due to be filed by March 31, 2020;
- (2) That the general objections made by Duke in response to NCSEA DR6 and in Duke's Response to NCSEA's Motion to Compel are overruled;
- (3) That the questions contained within NCSEA DR6 are timely, relevant, and not unduly burdensome; and
- (4) Any such further and other relief as the Commission deems just and proper

Respectfully submitted, this the 18th day of March, 2020.

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**CERTIFICATE OF SERVICE**

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing *NCSEA's Reply to Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Response in Opposition of NCSEA's Motion to Compel* by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 18th day of March, 2020.

/s/ Peter H. Ledford

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